IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.210 of 2006

R.Thamilarasi ... Petitioner

vs.

1. State of Tamil Nadu,
   Rep. by the Secretary,
   Prohibition and Excise Department,
   Fort St. George, Chennai.

2. The District Magistrate and
   The District Collector,
   Villupuram District. ... Respondents

For Petitioner : Mr.P.Kumaresan

For Respondents : Mr. M.Babu Muthu Meeran,
Addl. Public Prosecutor.

Petition under Article 226 of the Constitution of India for the issuance of Writ of Habeas Corpus to call for the records relating to the detention order C2/7537/2006, dated 13.02.2006, passed by the second respondent under Tamil Nadu Act 14 of 1982, quash the same, direct the respondent to produce the detenu Nelichan @ Mayakannan, S/o Ramasamy, now confined in Central Prison, Cuddalore, before the Court and set him at liberty.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

. . . . .

The petitioner challenges the detention order dated 13.02.2006, detaining her son by name Nelichan @ Mayakannan as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral

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Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

2. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

3. The particulars furnished by the learned Government Advocate show that the representation of the detenu was received by the Government on 23.02.2006, remarks were called for on 24.02.2006 and the same were received from the Sponsoring Authority on 07.03.2006. Thereafter, File was dealt with by the Under Secretary and Deputy Secretary on 09.03.2006. Finally, the Minister for Prohibition and Excise passed orders on 10.03.2006. However, the rejection letter was prepared only on 15.03.2006. The said letter was sent to the Central Prison for service on 16.03.2006 and served to the detenu on 20.03.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 10.03.2006, there is no reason for taking time till 15.03.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays on Saturday and Sunday, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

सत्यमेव जयते

JI.

Sd/
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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To

1. Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai 600 009.
2. District Magistrate & District Collector, Villupuram.
3. The Superintendent, Central Prison, Cuddalore.
   (In duplicate for communication to detenu)
4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.P.Kumaresan, Advocate, SR.24641

sgl (co)

dv/20.6.06

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